

ORIGINAL

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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NAGYA AHMED HASSAN EL-ASSAL EL-
HABASHY, individually and as successor-in-
interest, and on behalf of the heirs and estate of
Captain Ahmed Mahmoud El-Habashy,
deceased, et al.,

Plaintiff,

-against-

BOEING CO., et al.,

Defendants.
-----x

D + F
CIM
MEMORANDUM & ORDER

00-CV-7160 (FB)(VVP)
00-MDL-1344 (FB)(VVP)

IN CLERK'S OFFICE
U.S. DISTRICT COURT
★ AUG 17 2005 ★

P.M. _____
TIME A.M. _____

BLOCK, District Judge:

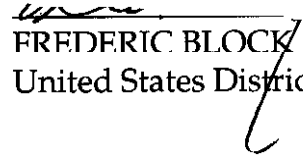
On May 17, 2005, Magistrate Judge Pohorelsky issued a Report and Recommendation ("R & R") relieving Sterns & Walker from further representation of certain plaintiffs. The R & R stated that "[a]ny objections to the [R & R] must be filed . . . within ten days of receipt of [the R & R][,]" and that "[f]ailure to file objections within the specified time waives the right to appeal any judgment or order entered by the District Court" See R & R, at 2; *see also* 28 U.S.C. § 636(b)(1). None of the parties has objected to the R & R.

If clear notice has been given of the consequences of failure to object, and there are no objections, the Court may adopt the R & R without *de novo* review. See *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985); *Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) ("Where parties receive clear notice of the consequences, failure timely to object to a magistrate's report and recommendation operates as a waiver of further judicial review

of the magistrate's decision."'). Plaintiff served a copy of the R & R on defendants via Federal Express mail, which both provided notice of the R&R, and informed them of their rights to object and the consequences of not so doing. *See* Docket Entry #25.

The Court will excuse the failure to object and conduct *de novo* review if it appears that the magistrate judge may have committed plain error in ruling against the defaulting party. *See Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000). Here, nothing on the face of the R & R suggests plain error. Accordingly, the Court adopts the R & R without *de novo* review.

SO ORDERED.


FREDERIC BLOCK
United States District Judge

Brooklyn, New York
August 11, 2005